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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

CONSUMER FINANCIAL PROTECTION BUREAU,

PETITIONER,

VS.

CENTER FOR EXCELLENCE IN HIGHER EDUCATION,

RESPONDENT.

**NOTICE OF  
SUPPLEMENTAL  
AUTHORITY**

CASE No. 2:19-cv-00877-  
DB-CMR

JUDGE DEE BENSON

MAGISTRATE JUDGE  
CECILIA M. ROMERO

## NOTICE OF SUPPLEMENTAL AUTHORITY

On Tuesday, September 8, 2020, the United States Court of Appeals for the Fifth Circuit entered an order (attached as Ex. A) holding in abeyance *CFPB v. All American Check Cashing, Inc.*, No. 18-60302, which had been scheduled for *en banc* consideration later this month, pending the Supreme Court’s decision in *Collins v. Mnuchin*, Nos. 19-422 and 19-563.

*CFPB v. All American Check Cashing, Inc.* raises the same legal question present here—namely, what is the appropriate remedy for the CFPB’s constitutional defect recognized in *Seila Law LLC v. CFPB*, 140 S. Ct. 2183 (2020). [See Suppl. En Banc Br. of Appellants, CFPB v. All American Check Cashing, Inc., No. 18-60302 \(5th Cir. July 30, 2020\)](#).

As noted in Respondent’s June 30 Notice of Supplemental Authority, the Supreme Court left open that question in *Seila Law* because the parties had not briefed it. *See* Dkt. No. 33 at 2; *see also Seila Law*, 140 S. Ct. at 2208. Just days after issuing *Seila Law*, however, the Supreme Court granted certiorari in *Collins v. Mnuchin* which squarely presents the question for the Court’s review. [See Petition for Writ of Certiorari at i, Collins v. Mnuchin, No. 19-422 \(Sept. 25, 2019\)](#) (raising the question presented: “[w]hether the courts must set aside a final agency action that [an agency] took when it was unconstitutionally structured”).

The Fifth Circuit made the prudent decision to hold *CFPB v. All American Check Cashing, Inc.* in abeyance in recognition of the fact that the Supreme Court took up the present question in *Collins v. Mnuchin*, Nos. 19-422 and 19-563. This

Court should similarly hold this case in abeyance pending the Supreme Court's decision in *Collins v. Mnuchin*, Nos. 19-422 and 19-563.

Dated: September 10, 2020

**SNELL & WILMER L.L.P.**

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Paul W. Shakespear

**GOMBOS LEYTON, P.C.**

/s/ Jacob C. Shorter

Steven M. Gombos  
David A. Obuchowicz  
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*Counsel for Respondent Center for  
Excellence in Higher Education, Inc.*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 10, 2020, I served the foregoing document via the court's CM/ECF electronic filing system to all counsel of record, including the following:

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